

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY	)	
AVERAGE WHOLESALE PRICE	)	
LITIGATION	)	MDL No. 1456
<hr/>	)	Civil Action No. 01-12257-PBS
	)	Subcategory Case No. 06-11337-PBS
<b>THIS DOCUMENT RELATES TO:</b>	)	
	)	Hon. Patti B. Saris
<i>United States of America ex rel. Ven-a-Care of</i>	)	
<i>the Florida Keys, Inc., et al. v. Dey, Inc., et</i>	)	
<i>al., CIVIL ACTION NO. 05-11084-PBS</i>	)	
	)	

**PLAINTIFFS' MOTION FOR A PROTECTIVE ORDER**

Pursuant to Federal Rules of Civil Procedure 26(b) and (c), Plaintiffs United States of America and Relator Ven-a-Care of the Florida Keys, Inc., move for a protective order prohibiting the deposition of Robert Reid by Defendants Dey, Inc., Dey L.P., Inc. and Dey, L.P. (Collectively, "Dey"). As set forth more fully in the accompanying Memorandum, plaintiffs assert that good cause exists for a protective order because on November 12, 2008, plaintiffs notified Dey that they were dropping their claim for damages to the state of Ohio's Medicaid program, and cancelling the Rule 30(b)(6) deposition of the Ohio Medicaid agency the United States had previously noticed. Despite there being no remaining claim for damages related to Ohio Medicaid claims, on Monday evening, November 17, 2008, defendant Dey served a Notice of the Rule 30(b)(1) deposition of former Ohio Medicaid official Robert Reid. With less than three weeks left in the fact discovery period allowed by the Court, with literally dozens of depositions all over the United States remaining to be taken in the final days of discovery, there is simply no time to waste on a now-irrelevant deposition.

WHEREFORE for the foregoing reasons and those set forth in the Memorandum

accompanying this Motion, the Court should allow this Motion and order that the Rule 30(b)(1) deposition of Robert Reid not go forward.

Respectfully submitted,

For the United States of America,

For the relator, Ven-A-Care of the Florida Keys, Inc.,

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#### **CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below I caused a copy of the foregoing Motion for a Protective Order and the accompanying Memorandum, to be served on all counsel of record via electronic filing.

Dated: 20 November 2008

/s/ Barbara Healy Smith  
Barbara Healy Smith  
Assistant United States Attorneys

#### **LOCAL RULE 7.1 CERTIFICATION**

The undersigned counsel certifies pursuant to Local Rule 7.1(a)(2) that on November 18, 2008, she wrote to counsel and asked that the Notice of Deposition at issue be withdrawn; by letter dated November 19, 2008, Dey's counsel declined to do so; by letter, e-mail and copy of subpoena, defendant Abbott indicated its intent to subpoena Mr. Reid for a deposition also.

Dated: 20 November 2008

/s/ Barbara Healy Smith  
BARBARA HEALY SMITH  
Assistant United States Attorneys